

REMARKS

Claims 6-13, 15-18, 20, and 25-30 are pending. Claims 1-5, 14, and 21-24 were previously cancelled without prejudice. No new matter has been added.

Rejections under 35 U.S.C. § 102(b)

Claims 6-13, 18, 20, and 25-30 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,755,721 to Hearn (“Hearn”). These rejections should be withdrawn.

Hearn discloses a drill guide 1 having a sleeve 10 having an integral knurled flange 11, and receiving a tube 30 therein. Removable cover 60 is positioned over drill guide 1 (to envelop sleeve 10) when the device is inserted into the body, to displace soft tissue and expose bone.

Regarding independent claims 6, 25, and 28, Hearn does not disclose a “rod releasably attached to the outer stem.” Examiner appears to designate item 60 (cover) as a “threaded rod” in the pending office action. (Office Action mailed March 28, 2006 “Final Rejection” at 2). However, the cover 60 of Hearn is not a “rod” — instead, cover 60 is a hollow cone-shaped covering. (Hearn at 4:54-65).

Further regarding independent claim 6, Hearn does not disclose a “rod releasably attached to...a bone plate.” Even if cover 60 can be considered a “rod,” there is no disclosure in Hearn of releasably attaching cover 60 to a bone plate.

Further regarding independent claims 25 and 28, Hearn does not disclose a drill guiding barrel pivotable relative to or pivotably attached an outer stem. Examiner stated of Hearn that “[t]he drill guide barrel pivots about a hinge, 11, on the stem.” (Final Rejection at 2). Initially, Applicants note that item 11 in Hearn is a knurled flange that is integral with stem 10, and thus not a “hinge.” (Hearn at 3:3-5). Moreover, tube 30 of Hearn is not pivotable relative to or pivotably attached to sleeve 10 via knurled flange 11, or any other mechanism. While tube 30 may *rotate* within sleeve 10 to adjust its depth, the tube 30 is clearly is not allowed to *pivot* relative to sleeve 10.

As Hearn fails to disclose each and every element of independent claims 6, 25, and 28, Applicants submit these rejections should be withdrawn. Moreover as dependent claims 7-13, 18, and 20 depend from independent claim 6, dependent claims 26 and 27 depend from independent claim 25, and dependent claims 29 and 30 depend from independent claim 28, the rejections of these claims should likewise be withdrawn, for at least this reason.



Rejections under 35 U.S.C. § 103(a)

Claims 15-17 were rejected under 35 U.S.C. § 103(a) as unpatentable over Hearn in view of U.S. Patent No. 6,447,512 to Landry ("Landry"). Claims 15-17 depend from independent claim 6. As discussed above, Hearn fails to disclose each and every element of claim 6. Landry fails to remedy the deficiencies of Hearn. Thus, Applicants submit the rejections of claims 15-17 should be withdrawn.

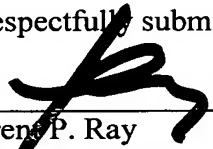
CONCLUSION

It is believed that claims 6-13, 15-18, 20, and 25-30 are in condition for allowance.

No fee is believe due for this response. Should any fee(s) be due at this time, please charge such fee(s) to Jones Day Account No. 503013.

Respectfully submitted,

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